

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

EARL WARNER,  
Plaintiff,

v.

MATTHEW L. CATE, et al.,  
Defendants.

Case No. [12-cv-06163-YGR](#) (PR)

**ORDER OF DISMISSAL WITHOUT  
PREJUDICE**

On May 1, 2014, the Court issued an Order of Dismissal With Leave to Amend. Specifically, the Court granted Plaintiff twenty-eight days from the date of the Order to file an amended complaint to allege facts sufficient to state a cognizable constitutional claim. Plaintiff was warned that the failure to timely file an amended complaint would result in the dismissal of this action for failure to prosecute. On June 13, 2014, the Court granted Plaintiff's request for an extension of time and directed him to file his amended complaint on or by September 4, 2014. On September 18, 2014, the Court granted Plaintiff's request for a second extension of time and directed him to file his amended complaint on or by October 10, 2014.

The time for Plaintiff to file his amended complaint has passed, and no amended complaint has been filed even though he was granted two extensions of time to do so. Taking into account the salient factors set forth in *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260 (9th Cir. 1992), the Court finds that dismissal is warranted under Federal Rule of Civil Procedure 41(b). *See Yourish v. Cal. Amplifier*, 191 F.3d 983, 989, 992 (9th Cir. 1999) (affirming dismissal of action following plaintiff's failure to amend complaint after receiving leave to do so, where the interest in expeditious resolution of litigation, the court's management of its docket, and avoiding prejudice to defendants favored dismissal). Accordingly, IT IS HEREBY ORDERED that the complaint in the above-captioned action is DISMISSED. The Clerk of the Court shall enter judgment, terminate all pending motions and close the file.

Dated: October 29, 2014

  
YVONNE GONZALEZ ROGERS  
United States District Court Judge